

IN THE COURT OF APPEALS FOR THE  
SECOND COURT OF APPEALS DISTRICT OF TEXAS

**EX PARTE**

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FILED IN  
2nd COURT OF APPEALS  
FORT WORTH, TEXAS

5/22/2018 8:24:11 AM

DEBRA SPISAK

**NO. 02-17-00188-CR**<sup>Clerk</sup>

**CHARLES BARTON**

*APPEALED FROM CAUSE NUMBER 1314404 IN THE COUNTY  
CRIMINAL COURT NO. 8 OF TARRANT COUNTY, TEXAS; THE HONORABLE  
CHARLES L. VANOVER, PRESIDING.*

**THIRD UNOPPOSED MOTION FOR EXTENSION OF TIME  
TO FILE STATE'S BRIEF**

TO THE HONORABLE JUDGES OF THE COURT OF APPEALS:

COMES NOW, the State of Texas, by and through Sharen Wilson, Criminal  
District Attorney of Tarrant County, and files its third unopposed motion to file the  
State's brief in this appeal and for cause would respectfully show the following:

I.

The trial court was the County Criminal Court No. 8 of Tarrant County, Texas.  
The style and number of the case in the trial court was *The State of Texas v. Charles  
Barton*, No. 1314404.

II.

Appellant is charged with nine counts of harassment under Texas Penal Code  
section 42.07(a)(7). CR 1: 5–6 (Information). On August 8, 2016, Appellant filed a

motion to quash the information, arguing that Section 42.07(a)(7) was unconstitutional and that the information did not provide Appellant proper notice of the allegations against him. CR 1: 45–47 (Motion to Quash). Following the trial court’s denial of Appellant’s motion to quash, Appellant filed his Original Application for Writ of Habeas Corpus based on Article 11.09 of the Texas Code of Criminal Procedure, arguing once again that Section 42.07(a)(7) was unconstitutional. CR 1: 49–52 (Application). On May 18, 2017, the trial court denied the Appellant’s Application. CR 1: 63 (Order).

Appellant posted bond and is not incarcerated.

### III.

The appeal was perfected in this case on June 22, 2017, when the notice of appeal was filed.

### IV.

The Court granted each of Appellant’s motions for extension of time to file his brief, which were filed on August 4, 2017, October 4, 2017, November 30, 2017, and January 30, 2018. On March 2, 2018, Appellant filed his brief. Appellant requested oral argument.

On March 22, 2018, the Court granted the State’s first motion for extension. On April 25, 2018, the Court granted the State’s second motion for extension.

V.

The current deadline for filing the State's brief is May 23, 2018.

VI.

Counsel for the State has had the following obligations that have prevented him from completing this brief by his current deadline:

1. Counsel has had to take time off of work the past month because his mother has been in and out of the hospital.
2. Counsel filed the State's brief in *State v. Raul Cortez*, No. 02-18-00019-CR, on May 16, 2018.
3. Counsel assisted trial prosecutors regarding various evidentiary trial issues in *State v. George Orton*, Trial Court Case No. 1522921, in Tarrant County, which was tried the week of May 14.
4. Counsel filed the State's Findings of Fact and Conclusions of Law in response to Applicant's Section 11.07 Writ of Habeas Corpus Application in *Ex Parte Kevin J. Jones*, No. C-432-W011198-1469217-A, on May 8, 2018.
5. Counsel filed State's brief in *John Anthony Dobbs v. State*, No. 02-17-00246-CR, on April 27, 2018.

6. Counsel filed State's response to Applicant's Section 11.07 Writ of Habeas Corpus in *Ex Parte Charles Ray Diaz*, No. C-396-W011290-1350578-A, on April 24, 2018.
7. Counsel has been working on the State's response to Appellant's "Motion for Emergency Relief Pending Appeal" in *Jason Eugene Arnold v. State*, No. 02-18-00022-CR, which the Court ordered due this Thursday, May 24, 2018.
8. Counsel has been working on the State's brief in *Jaleel Bertrand Franklin v. State*, No. 02-17-00113-CR, answering two points of error based on Appellant's conviction for continuous sexual assault of a child.
9. Counsel has been working on the State's response to Applicant's Second Section 11.07 Writ of Habeas Corpus Application in *Ex Parte Kevin J. Jones*, No. C-432-W011301-1469217-B.

## VII.

The State requests that the Court extend the deadline for filing its brief for 30 days until June 22, 2018. This extension is not requested for purposes of delay. Rather, the State needs more time to adequately address the multiple points of error in this appeal that challenge the constitutionality of the Texas harassment statute.

WHEREFORE, PREMISES CONSIDERED, the State of Texas prays that this Court grant this Third Unopposed Motion for Extension of Time to File State's Brief and extend time for filing of the brief to June 22, 2018.

Respectfully submitted,

SHAREN WILSON  
Criminal District Attorney  
Tarrant County, Texas

JOSEPH W. SPENCE,  
Assistant Criminal District Attorney  
Chief, Post-Conviction

/s/ Steven Baker  
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STEVEN BAKER, Assistant  
Criminal District Attorney  
Tim Curry Criminal Justice Center  
401 W. Belknap  
Fort Worth, Texas 76196-0201  
(817) 884-1687  
FAX (817) 884-1672  
State Bar No. 24073882  
COAappellatealerts@TarrantCountytx.gov

**CERTIFICATE OF CONFERENCE**

I, Steven Baker, Assistant Criminal District Attorney, hereby certify that I contacted Appellant's attorney, Tobias Lopez, on May 21, 2018, explained that I planned to file for this extension, and inquired whether Mr. Lopez or Ed Jones, who

is also representing Appellant on appeal, had any objections. Mr. Lopez indicated that he and Mr. Jones were unopposed to this motion.

/s/ Steven Baker  
STEVEN BAKER

**CERTIFICATE OF SERVICE**

A true copy of the State's motion for extension of time has been electronically served on opposing counsel, Ed Jones and Tobias Lopez, at the Edward G. Jones Law Firm, 1319 Ballinger Street, Fort Worth, Texas, 76102 (edjonesatty@gmail.com and tobiasxavierlopez@gmail.com), on this, the 22nd day of May, 2018.

/s/ Steven Baker  
STEVEN BAKER